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HOUSE No. 3848

The Commonwealth of Massachusetts

INITIATIVE PETITION OF THOMAS M. MENINO AND OTHERS.

OFFICE OF THE SECRETARY.
BOSTON, JANUARY 1, 2014.

Steven T. James
Clerk of the House of Representatives
State House
Boston, Massachusetts 02133

Sir: — I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution, an Initiative Petition for Law entitled “Updating the Bottle Bill” signed by ten qualified voters and filed with this department on or before December 4, 2013, together with additional signatures of qualified voters in the number of 94,950, being a sufficient number to comply with the Provisions of said Article.

Sincerely,

WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

The Commonwealth of Massachusetts

In the Year Two Thousand and Fourteen.

An Act relative to updating the bottle bill.

Be it enacted by the People, and by their authority, as follows:

1 SECTION 1. Section 321 of chapter 94 of the General Laws is
2 hereby amended by deleting the definition of “Beverage” and
3 replacing it with the following definition:-
4 "Beverage", soda water or similar carbonated soft drinks,
5 noncarbonated non-alcoholic beverages in liquid form intended for
6 human consumption, mineral water, beer, and other malt
7 beverages. This definition excludes beverages that are primarily
8 derived from dairy products, infant formula, united states food and
9 drug administration-approved medicines, wine, and alcoholic
10 beverages other than beer and malt beverages as defined in chapter
11 one hundred and thirty-eight.

12 SECTION 2. Paragraph 3 of said section 321 of said chapter 94 is
13 hereby amended by striking out the last sentence and inserting in
14 place thereof the following sentence:-

15 This definition shall not include containers made of paper-based
16 biodegradable material and aseptic multi-layer packaging.

17 SECTION 3. Said section 321 of said chapter 94 is hereby further
18 amended by inserting after the definition of “Plastic bottle” the
19 following definition:-

20 “Redemption center”, any business whose primary purpose is the
21 redemption of beverage containers and which is not ancillary to
22 any other business.

23 SECTION 4. Said section 321 of said chapter 94 is hereby further
24 amended by inserting after the definition of “Reusable beverage
25 container” the following definition:-

26 “Small dealer”, any person or business, including any operator of a
27 vending machine, who engages in the sale of beverages in
28 beverage containers to consumers in the commonwealth, with a
29 contiguous retail space of 3,000 square feet or less, exclusive of

30 office and stock room space; and fewer than four (4) locations
31 under the same ownership within the Commonwealth.

32 SECTION 5. Section 322 of said chapter 94 is hereby amended by
33 inserting after said section the following section:-

34 Section 322A: The secretary of the executive office of energy and
35 environmental affairs shall review the refund value as referenced
36 in section 322 every five (5) years and adjust said amount to the
37 nearest whole cent to reflect the consumer price index as reported
38 by the united states department of labor, but in no case shall the
39 refund value be less than five (5) cents.

40 SECTION 6. Paragraph (c) of said section 323 of said chapter 94
41 of the General Laws is hereby amended by striking out the words
42 “one cent” and inserting in place thereof the words “three and one
43 half cents” and by adding the following sentence:-

44 The handling fee shall be reviewed every five (5) years by the
45 secretary of the executive office of energy and environmental
46 affairs and adjustments made to reflect the consumer price index as
47 reported by the united states department of labor, or equivalent

48 index selected by the secretary if the consumer price index is
49 discontinued, as well as industry-specific increases or decreases in
50 costs incurred by redemption centers.

51 SECTION 7. Paragraph (d) of said section 323 of said chapter 94
52 is hereby amended by striking out the words “one cent” and
53 inserting in place thereof the words “three and one half cents” and
54 by adding the following sentence:-

55 The handling fee shall be reviewed every five (5) years by the
56 secretary of the executive office of energy and environmental
57 affairs and adjustments made to reflect the consumer price index as
58 reported by the united states department of labor, or equivalent
59 index selected by the secretary if the consumer price index is
60 discontinued, as well as industry-specific increases or decreases in
61 costs incurred by redemption centers.

62 SECTION 8. Paragraph (f) of said section 323 of said chapter 94 is
63 hereby amended by changing the period at the end of the current
64 paragraph into a comma, and adding the words "or for which there
65 is no Massachusetts refund legend on the beverage container."

66 SECTION 9. Said chapter 94 is hereby further amended by
67 inserting after section 323E the following section:-
68 Section 323F. (a) There shall be established on the books of the
69 commonwealth a separate fund to be known as the clean
70 environment fund. All abandoned deposits collected pursuant to
71 chapter 94, section 323D shall be deposited into the clean
72 environment fund. Amounts deposited in said fund shall be used,
73 subject to appropriation, for programs including but not limited to
74 projects supporting the proper management of solid waste, water
75 resource protection, parkland, urban forestry, air quality and
76 climate protection.

77 SECTION 10. Paragraph (b) of said section 323 of said chapter 94
78 is hereby amended by inserting the following words after the
79 current paragraph:- Notwithstanding any general or special law to
80 the contrary, the secretary of the executive office of energy and
81 environmental affairs shall, on or before June 22, 2015, promulgate
82 regulations providing small dealers with the right to seek
83 exemptions from accepting empty deposit containers. Said

84 regulations shall consider at least the health and safety of the
85 public, and the convenience for the public, including distribution
86 of dealers and redemption centers by population or by distance or
87 both.

88 SECTION 11. This act shall take effect on April 22, 2015.

FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
Thomas M. Menino	102 Chesterfield Street	Boston
Lisa A. Wong	50 Fitch Hill Avenue	Fitchburg
Marilyn Peterson	25 Old Village Road	Acton
Janet Susan Domenitz	22 Alpine Street	Cambridge
Ryan J. Black	96 Saint Botolph Street, #2	Boston
James Tingle, Jr.	27 Lawrence Street, #2	Cambridge
Anne Swingle Borg	155 Winchester Street	Newton
Julie A. Crockford	62 Union Avenue	Boston
Shawna Rae Upton	420 UM Pierpont	Amherst
Kenneth David Pruitt	50 Thornberry Road	Winchester

Summary of 13-13.

This proposed law would expand the state's beverage container deposit law, also known as the Bottle Bill, to require deposits on containers for all non-alcoholic non-carbonated drinks in liquid form intended for human consumption, except beverages primarily derived from dairy products, infant formula, and FDA approved medicines. The proposed law would not cover containers made of paper-based biodegradable material and aseptic multi-material packages such as juice boxes or pouches.

The proposed law would require the state Secretary of Energy and Environmental Affairs (EEA) to adjust the container deposit amount every five years to reflect (to the nearest whole cent) changes in the consumer price index, but the value could not be set below five cents.

The proposed law would increase the minimum handling fee that beverage distributors must pay dealers for each properly returned empty beverage container, which was $2\frac{1}{4}$ cents as of September 2013, to $3\frac{1}{2}$ cents. It would also increase the minimum handling fee that bottlers must pay distributors and dealers for each properly returned empty reusable beverage container, which was 1 cent as of September 2013, to $3\frac{1}{2}$ cents. The Secretary of EEA would review the fee amounts every five years and make appropriate adjustments to reflect changes in the consumer price index as well as changes in the costs incurred by redemption centers. The proposed law defines a redemption center as any business whose primary purpose is the redemption of beverage containers and that is not ancillary to any other business.

The proposed law would direct the Secretary of EEA to issue regulations allowing small dealers to seek exemptions from accepting empty deposit containers. The proposed law would define small dealer as any person or business, including the operator of a vending machine, who sells beverages in beverage containers to consumers, with a contiguous retail space of 3,000 square feet or less, excluding office and stock room space; and fewer than four locations under the same ownership in the Commonwealth. The proposed law would require that the regulations consider at least the health, safety, and convenience of the

public, including the distribution of dealers and redemption centers by population or by distance or both.

The proposed law would set up a state Clean Environment Fund to receive certain unclaimed container deposits. The Fund would be used, subject to appropriation by the state Legislature, to support programs such as the proper management of solid waste, water resource protection, parkland, urban forestry, air quality and climate protection.

The proposed law would allow a dealer, distributor, redemption center or bottler to refuse to accept any beverage container that is not marked as being refundable in Massachusetts.

The proposed law would take effect on April 22, 2015.

CERTIFICATE OF THE ATTORNEY GENERAL.

September 4, 2013.

Honorable William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

RE: Initiative Petition No. 13-13: Updating the Bottle Bill.

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Cordially,

MARTHA COAKLEY,
Attorney General.